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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,586	01/08/2002	Domenico Arabino	Q67753	1442

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EXAMINER

STRIMBU, GREGORY J

ART UNIT PAPER NUMBER

3634

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/038,586

Applicant(s)

ARABINO, DOMENICO

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### ***Drawings***

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on September 20, 2002 and December 23, 2003 have been approved.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The claim is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in figure 1 in view of Griesbach et al. The admitted prior art in figure 1 discloses a weather strip 1 for an edge 6 of an opening adapted to be closed by a motor driven closure element 8, the weather strip having a U shaped configuration 2 comprised of a transverse base member (not numbered, but seen in figure 1) and a pair of parallel gripping elements (not numbered, but seen in figure 1) extending from opposite ends of the transverse base portion in parallel relationship to each other, a wall member 12 disposed in spaced apart parallel relation to the transverse base portion and secured to the transverse base portion at opposite ends thereof to define a compartment 13, a pressure sensitive element 14 disposed in the compartment and comprised of a pair of flexible electrically conductive strips separated by electrically insulating elements disposed between lateral longitudinal edges of the strips, a longitudinal projection 19 protruding centrally from the wall member 12 into the

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compartment in engagement with the pressure sensitive element at a point in space relation to the longitudinal edges of the pressure sensitive element to maintain the pressure sensitive element spaced from the wall member 12 whereby upon application of pressure to the compartment by an obstruction located between the closure element and the weather strip the pressure sensitive element will be deformed about the projection as a result of the fixed central location of the projection in relation to the pressure sensitive element to bring the electrically conductive strips into contact with each other. The admitted prior art in figure 1 is silent concerning the projection being mounted on the transverse base member.

However, Griesbach et al., in figure 2, discloses a pressure sensitive switch comprising a base member 26 having a projection 38 to maintain a pressure sensitive element 32 spaced from the transverse base portion and so that the pressure sensitive element will always be deformed about the projection 38.

It would have been obvious to one of ordinary skill in the art to provide the admitted prior art in figure 1 a protrusion on the base member, as taught by Griesbach et al., to allow for the accurate transmission of force to the pressure sensor (see column 6, lines 23-24) or because it has been held that the mere reversal of the essential working parts of a device involves no more than routine skill in the art. *In re Einstein*, 8 USPQ 167.

### ***Response to Arguments***

Applicant's arguments submitted December 23, 2003 have been considered but are not persuasive.

It should first be noted that the applicant's arguments against the references individually, i.e., Griesbach et al., one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Although Griesbach et al. functions in different manner than the claimed invention, it teaches the use of the projection 38 to enhance the operation of the pressure sensitive element 32. Therefore, when one with ordinary skill in the art considers the teachings of both the admitted prior art in figure 1 and Griesbach et al., he or she would be motivated to place the projection 19 of figure 1 on the base of figure 1 to enhance the operation of the pressure sensitive element, as taught by Griesbach et al. Merely because Griesbach et al. operates in a different manner from the present invention does not prevent one of ordinary skill in the art from combining the beneficial teachings of Griesbach et al. with the admitted prior art of figure 1.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



Gregory J. Strimbu  
Primary Examiner  
Art Unit 3634  
March 25, 2004